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82022-0101



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER R3700

In re Application of)
Nicholas P. MARCHESANI)
Serial No. 09/168,072) Examiner: W. Pierce
Filed: October 8, 1998) Group Art Unit: 3711
For: LOW/MAX CARD GAME)
METHOD AND APPARATUS)

**RESPONSE TO NOTICE OF IMPROPER REQUEST FOR CONTINUED
EXAMINATION (RCE)**

Assistant Commissioner for Patents
Washington, D.C. 20231


Dear Sir:

Responsive to the Notice of Improper Request for Continued Examination (RCE) mailed July 29, 2002 (a copy of which is attached), Applicant is herewith submitting a copy of the previously filed amendment. Applicant requested in the Continued Prosecution Application (CPA) Request filed April 30, 2002 that the unentered amendment previously filed on September 10, 2001 under 37 CFR § 1.116 in the prior nonprovisional application be entered.

Should there be any questions relating to this transmittal, please telephone Kevin Shaw at (202) 637-6466.

Respectfully submitted,

By:


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Dated: September 9, 2002



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/168,072 ✓	10/08/1998	NICK MARCHESANI	2413-101A	2085

24633 7590 07/29/2002

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AUG 01 2002

IP DOCKETING DEPT.

82022-0101

EXAMINER

PIERCE, WILLIAM M

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/29/2002



Please find below and/or attached an Office communication concerning this application or proceeding.

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ATTY. DOCKET NO./TITLE



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DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 4/30/02 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

7a. Submission No.2 on paper #19 is unnecessary. Paper No.17 does what No.2 intended to do.
 Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions about this notice to:

Re Pierce, Examining Group 3711

(703) 308-3551
 FORM PTO-2051 (Rev. 3/2001)